

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

METROPOLITAN LIFE INSURANCE COMPANY,)	
)	
)	
Plaintiff,)	CIVIL ACTION NO.
)	
VS.)	3:12-CV-4174-G (BN)
)	
WILLIAM E. DAILEY, JR., ET AL.,)	
)	
Defendants.)	

**ORDER ACCEPTING FINDINGS AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Before the court are the findings, conclusions, and recommendation of the United States Magistrate Judge dated May 27, 2014 (docket entry 107) concerning the motion to deposit plan benefits into the Registry of the Court and for discharge with prejudice filed by plaintiff Metropolitan Life Insurance Company (“MetLife”) (docket entry 98).

None of the defendants filed a response to MetLife’s motion, but Elizabeth Dailey did make a number of objections to the magistrate judge’s recommendation. *See Objection in Part (“Objection”)* (docket entry 115). As a preliminary matter,

“[a]rguments which could have been raised before the magistrate judge but were raised for the first time in objections before the district court are waived.” *United States v. Whisenhunt*, No. 3:12-CV-0614-B, 2014 WL 1226177, at *3 (N.D. Tex. Mar. 25, 2014) (Boyle, J.). Nonetheless, the court will address several of Ms. Dailey’s objections. First, Ms. Dailey objects that MetLife should not be dismissed from the suit because she has a complaint against the way that it released her information, including her social security number, to the other parties in this case. *Id.* at 3-4. Ms. Dailey has not yet filed a counterclaim against MetLife. To the extent that she wishes to bring such a claim, she may do so by filing a separate lawsuit, as her claim is not related to the dispute at the heart of this case. Next, Ms. Dailey protests that if she had been the plaintiff from the beginning of this case, she would not have chosen Texas to be the forum -- rather, that was MetLife’s choice. *Id.* at 4-5. However, Ms. Dailey never moved to transfer venue, and even if she had, this court is a proper venue under 28 U.S.C. § 1335. Lastly, Ms. Dailey objected to the magistrate judge’s realignment of the parties because she claims that during the settlement conference held on May 19, 2014, JoAnn Hughes, Octavia Minyard, and Robert Lee Moore, Jr. stated that they do not wish to be a part of this case. *Id.* at 5. If it is true that Ms. Hughes, Ms. Minyard, and Mr. Moore do not wish to present a claim for the insurance proceeds nor be a part of this suit, then the parties can file an agreed

dismissal to release them from this suit after this order is entered. Ms. Dailey's objections are overruled.

The court finds that the findings, conclusions, and recommendation of the magistrate judge are correct and they are accepted as the findings, conclusions, and recommendation of the court. It is therefore **ORDERED** that MetLife's motion to deposit plan benefits into the Registry of the Court and for discharge with prejudice is **GRANTED**.

It is further **ORDERED** that plaintiff MetLife shall deposit the life insurance proceeds in the total amount of \$24,000 payable under the AT&T Medical and Group Life Insurance Plan-Group Life Insurance Plan as a result of the death of William E. Dailey, Sr., plus applicable interest (collectively, the "plan benefits"), into the registry of the court.

It is further **ORDERED** that, after the plan benefits have been deposited into the registry of the court, and by separate order, plaintiff MetLife shall be dismissed with prejudice and discharged from any further liability related to or arising out of the plan benefits payable as a result of the death of William E. Dailey, Sr.

It is further **ORDERED** that, after MetLife has been dismissed with prejudice, the clerk of the court shall **REALIGN** the parties as follows:

William E. Dailey, Jr., Elizabeth A. Dailey,
Christopher E. Dailey, and First National,
Ltd.,

Plaintiffs,

VS.

Shannon D. Dailey, Sheila L. Dailey, Shirley
L. Dailey, John W. Dailey, Kimberly M.
Atkins, as next friend of N.K.D., JoAnn
Hughes, Octivia Minyard, and Robert Lee
Moore, Jr.,

Defendants.

June 25, 2014.


A. JOE FISH
Senior United States District Judge